

BEFORE DELHI VALUE ADDED TAX, APPELLATE TRIBUNAL, DELHI  
Sh. Narinder Kumar, Member (Judicial)

Appeal No.: 01/ATVAT/2024  
**Date of Judgment : 29/01/2024.**

M/s. Ketan Overseas, HUF,  
679, Aggarwal Cyber Plaza 2,  
Netaji Subhash Place, Pitampura  
New Delhi - 110034

.....Appellant

v.

Commissioner, Department of Trade & Taxes, Delhi.

.....Respondent

CA representing the Appellant : Sh. Vijay Kumar Garg.  
Counsel representing the Respondent : Sh. S.B. Jain.

**Judgment**

1. This judgment is to dispose of the above captioned appeal, which pertains to tax period- 2<sup>nd</sup> quarter of the year 2016-17.
2. Appellant is feeling aggrieved by order dated 19/12/2023 passed by learned VATO- Special Objection Hearing Authority (Ld. SOHA) whereby, after granting certain exemptions from tax to the dealer-objector on the basis of one 'C' form produced there, learned SOHA has upheld the rest of the demand towards tax and interest as raised by learned Assessing Authority vide assessment dated 24/03/2021.

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3. On 24/03/2021, learned Assessing Authority framed assessment for the above said tax period i.e. 2<sup>nd</sup> quarter of 2016-17, and also for 3<sup>rd</sup> quarter of 2016-17, due to the reason that despite notice u/s 59 (2) of DVAT Act, none appeared in the proceedings and even the books of accounts, proof of sale/purchase, statutory forms and other relevant documents related to Central Sales, were not produced.
4. Arguments heard. File perused.
5. On behalf of the appellant, it has been submitted that one 'C' form for the relevant tax period i.e. 2<sup>nd</sup> Quarter (01/07/2016-30/09/2016) and of the value of Rs. 1,207,943/- has been received by the dealer-assessee from the purchasing dealer through courier on 22/01/2024. The contention is that since this 'C' form has been recently received from the purchasing dealer, it could not be produced before the Assessing Authority or before learned SOHA, and that the matter be remanded to learned Assessing Authority for taking into consideration said 'C' form and framing of fresh assessment.
6. Learned counsel for the Revenue submits that in the given facts and circumstances, when the only 'C' form, Annexed to appeal for the first time, is stated to have been received by the dealer from the purchasing dealer on 22/01/2024, he has no objection if the matter

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be remanded to learned Assessing Authority for fresh assessment, in accordance with law, *when costs of Rs. 2,000/- has been imposed, allowing production of said 'C' form.*

7. On the point of submission of 'C' form at a later stage, in the case of **M/s Kirloskar Electric Co. Ltd. V/s. Commissioner of Sales Tax**, 1991 Vol. 83 of Sales Tax Cases, 485, decided by our own Hon'ble High Court, Hon'ble Judge observed in the manner as :-

"The State is entitled to the tax which is legitimately due to it. When the Sales Tax Act provides that a deduction can be claimed in respect of sales affected in favour of registered dealers than the deduction should be allowed. The proof in support of claiming the deduction is the production of the S.T. 1 forms. Even though the S.T. 1 forms were produced after the assessment had been completed. It will not be fair or just not to allow the legitimate deduction....."

8. Having regard to the decision in Kirloskar's case (supra), and the claim of the dealer that the 'C' form, submitted with this appeal, was received from the purchasing dealer on 22/01/2024, the matter deserves to be remanded to learned Assessing Authority for fresh assessment, after providing the appellant herein another opportunity of being heard.

9. Accordingly, this appeal is disposed of so as to allow another opportunity to the appellant to present before the learned Assessing Authority, statutory form, copy whereof has been filed before this Appellate Tribunal.

10. The Assessing Authority shall subject this form to verification (including ruling out of any possibility of duplicacy), before

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allowing the concessional rate of tax to the appellant, while making assessment afresh, in accordance with law.

11. Appellant is hereby directed to appear before the Assessing Authority on 12/02/2024.
12. File be consigned to record room. Copy of the judgment be supplied to both the parties as per rules. One copy of judgment with copy of 'C' form Ex. C-1 be sent to the concerned authority. Another copy be displayed on the concerned website.

Announced in open Court.  
Date : 29/01/2024.

*Narinder Kumar*  
29/1/2024  
(Narinder Kumar)  
Member (Judicial)

